

## **EXHIBIT 9**

1

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 Thomas LaMarco and Diane LaMarco,

6 Plaintiffs,

Civil Index No:

21 Civ. 3716

7 -against-

8 Suffolk County, New York, Commissioner

9 Rodney Harrison, Individually and in

10 his Professional capacity, Captain

11 William Scrima, Individually, Sgt.

12 William Walsh, Individually, Police

13 Officer "John" Plihczik, Individually,

14 and "John Does 1-5", Individually,

15 Defendants.

16 -----x

17 100 Federal Plaza

18 Central Islip, New York

19 November 16, 2023

10:00 a.m.

20 Deposition of Defendant

21 LIEUTENANT WILLIAM WALSH, pursuant

22 to Notice, before Diana Mitchell, a

23 Notary Public of the State of New

24 York.

25

A P P E A R A N C E S:

THE BELLANTONI LAW FIRM, PLLC

Attorney for Plaintiff

2 Overhill Road, Suite 400

Scarsdale, New York 10583

BY: AMY L. BELLANTONI, ESQ.

SUFFOLK COUNTY DEPARTMENT OF LAW

Attorney for Defendants

100 Veterans Memorial Highway

Hauppauge, New York 11788

BY: ARLENE S. ZWILLING, ESQ.

IT IS HEREBY STIPULATED AND  
AGREED by and between the attorneys  
for the respective parties herein,  
that the filing, sealing and  
certification of the within  
deposition be waived.

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except  
as to the form of the question,  
shall be reserved to the time of  
the trial.

IT IS FURTHER STIPULATED AND  
AGREED that the within deposition  
may be sworn to and signed before  
any officer authorized to  
administer an oath with the same  
force and effect as if signed and  
sworn to before the Court.

- oOo -

MS. BELLANTONI: I have four exhibits, do you want to mark them now?

(Plaintiffs' Exhibit 1, Pistol License Handbook, marked for identification.)

(Plaintiffs' Exhibit 2, Police Department, County of Suffolk, New York, Pistol Licensing Bureau/Release of Medical Records, marked for identification.)

(Plaintiffs' Exhibit 3, Defendants' Initial Disclosures Pursuant to Rule 26(a)(1)(A), marked for identification.)

(Plaintiffs' Exhibit 4, Verified Complaint For Declaratory and Injunctive Relief, marked for identification.)

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1  
2 a lieutenant.

3 Q When did you begin that  
4 position?

5 A April of 2022.

6 Q What are your duties and  
7 responsibilities at the police academy?

8 A It's administrative and  
9 supervising the three in-service  
10 training, recruit training section and  
11 the range, firearms training section.

12 Q What was your assignment  
13 prior to being assigned to the police  
14 academy?

15 A Sergeant at the Pistol  
16 Licensing Bureau.

17 Q How long were you in that  
18 position?

19 A September of 2016 until April  
20 of 2022.

21 Q And your position or your  
22 title while you were assigned to the  
23 Pistol Licensing Bureau, was it always  
24 sergeant?

25 A Yes.

1  
2 or did they come directly from  
3 Commissioner Harrison?

4 A They were based on if -- I  
5 would sign them if my lieutenant was not  
6 available, and they were based on the  
7 policy and procedure and handbook from  
8 the Pistol Licensing Bureau.

9 Q So you had the ability and  
10 the authority to do that without going to  
11 Commissioner Harrison?

12 A If my lieutenant wasn't  
13 present I had the ability to sign,  
14 permission to sign it.

15 Q I am going to show you what  
16 has been marked as Exhibit 1.

17 MS. BELLANTONI: For the  
18 record, Exhibit 1 is production  
19 from Suffolk County and Bates  
20 stamped COS 0001 through COS 0174.

21 MS. ZWILLING: I see that  
22 part of this exhibit is a copy of  
23 Pistol Licensing Handbook. Is this  
24 the post-Bruen handbook, and I ask  
25 just to move things along?

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A Not that I recall.

Q Do you have any knowledge as to who or what department would handle or make any changes to or revisions to the pistol license handbook?

A I would assume.

MS. ZWILLING: Don't assume.

THE WITNESS: Oh, sorry.

Q Do you have any direct knowledge?

A Pistol Licensing Bureau, I did not in Pistol Licensing Bureau.

Q Is there a legal department within the Suffolk County Police Department?

A Yes.

Q Does it have a name specifically?

A Legal Bureau.

Q Generally, what is the pistol license handbook?

A Basically, it's a book that -- that is the rules, procedures, guidelines for a pistol licensee.



1  
2 Q Does the handbook, and  
3 specifically the handbook that was in  
4 effect in around 2021, which is the  
5 handbook that begins at COS 0016, does  
6 the handbook cover applications for  
7 pistol license and the criteria for  
8 applying and being eligible?

9 A I believe it is discussed in  
10 there.

11 Q And does it also provide  
12 licensees with information about the  
13 circumstances under which their license  
14 could be suspended or revoked?

15 A Yes.

16 Q Could you turn to Bates stamp  
17 0022? That is Chapter 2 and it's License  
18 Requirements, do you see that?

19 A Yes.

20 Q And to your understanding, do  
21 the license requirements set forth the  
22 eligibility for an individual to be  
23 issued a pistol license?

24 A I'm sorry, could you...

25 Q Sure.

Do the license requirements that are depicted in Chapter 2 there, do they inform the public of what the eligibility is for obtaining a pistol license?

A This is part of the requirements.

Q If you turn to the next page, 023, toward the middle of the page, do you see the sentence, "The final statutory requirement"?

A Yes.

Q "The final statutory requirement in the penal law grants the licensing officer the authority to consider facts not specifically addressed above as grounds for disapproving an application." Do you see where it says that?

A Yes.

Q I know what it says in the pistol licensing handbook, we can see that on page 023. The factors that determine eligibility, whether they're on

1  
2 page 22, which is the statutory factors  
3 under the penal law or the federal law,  
4 or whether on page 23, which is  
5 discretionary with the Licensing Division  
6 or Bureau, are those also the same  
7 grounds that an individual's existing  
8 license could be suspended or revoked?

9 A I'm sorry.

10 Q Okay, so on page 22 there are  
11 requirements under state and federal law  
12 to be even eligible to own a firearm, to  
13 possess a firearm, agreed?

14 A Correct.

15 Q And on the next page the  
16 handbook indicates that, "Aside from  
17 those statutory prohibitors, the Pistol  
18 License Bureau can also make a  
19 determination about whether someone is  
20 eligible based on their discretion." Is  
21 that accurate?

22 A Correct.

23 Q And those same state and  
24 federal disqualifiers and that same  
25 discretion would apply to grounds for

1  
2 suspending someone who has an existing  
3 license or revoke them; is that also  
4 accurate?

5 A Yes, it could be.

6 Q If you turn to page 032, on  
7 that page there is a section, Section 4,  
8 which is entitled, "Incidents That  
9 Require You to Notify the Licensing  
10 Bureau." Are you on that page?

11 A Yes.

12 Q This section requires an  
13 existing licensee to report to the  
14 licensing bureau if any of these  
15 incidents have occurred; is that correct?

16 A Yes.

17 Q Under A, the first section,  
18 it says, "Within 24 hours, a licensee is  
19 required under Subsection 5 to report the  
20 arrest of any member of their immediate  
21 household in any jurisdiction." Do you  
22 see that?

23 A Yes.

24 Q And so if an existing  
25 licensee resided with another person,

1  
2 spouse or adult, child or minor child,  
3 who was arrested, and that licensee who  
4 had not been arrested or had any  
5 prohibitors failed to report that  
6 incident to the licensing bureau within  
7 24 hours, that would present grounds for  
8 suspending their pistol license?

9 A That was just a little long.  
10 I'm sorry. If you could just clear it up  
11 a little?

12 Q Sure. Sure.  
13 If there is a licensee, so  
14 someone has a pistol license --

15 A Correct.

16 Q -- and they are living with  
17 their adult child, I'll say 20 year old,  
18 for example, and the 20 year old gets  
19 arrested for something, if the licensee  
20 doesn't report within 24 hours to the  
21 licensing bureau that their child has  
22 been arrested, their license could be  
23 suspended?

24 A Yes, okay.

25 Q Generally, is that the

1  
2 procedure and policy at the time that you  
3 were in the bureau, that the license  
4 would be suspended if you learned that  
5 they hadn't reported?

6 A It could be. I don't  
7 remember specific incidents.

8 Q And under Subsection 6,  
9 another incident required to be reported  
10 within 24 hours of occurrence is, "The  
11 issuance of any criminal process against  
12 a licensee or any member of the  
13 licensee's immediate household." Is that  
14 also correct?

15 A Yes.

16 Q And that would present a  
17 grounds for the licensee's pistol license  
18 to be suspended as well, yes?

19 A Yes, it could.

20 Q And on the next page, which  
21 is Bates stamped 033, Section 4, it's  
22 entitled, "Grounds for  
23 Suspension/Revocation." Subsection A  
24 indicates that, "The licensing officer,"  
25 so I am going to pause right there. When

1  
2 it says, "The licensing officer," is that  
3 generally, based on your years in the  
4 Pistol Licensing Bureau, does that  
5 generally mean the Pistol Licensing  
6 Bureau, either yourself or the lieutenant  
7 at the time?

8 A Licensing officer could be  
9 the commissioner's office, the  
10 lieutenant, myself or any licensing  
11 officer I believe that term is.

12 Q I'm just saying in practice,  
13 in the bureau in practice, when the  
14 handbook says, "The licensing officer may  
15 revoke or cancel a license at any time,"  
16 who had the authority to do that, so it  
17 would be yourself and lieutenant and/or  
18 the commissioner?

19 A Well, the commissioner's  
20 office has final determination on pistol  
21 license suspensions or revocations with  
22 permission.

23 Q I just want to clarify, you  
24 had said you had authority to sign a  
25 suspension notice if the lieutenant was

not available?

A Yes, I do have permission.

Q That means that you had authority to suspend a license if the handbook was violated?

MS. ZWILLING: Objection.

You may answer. You can answer.

A Oh, okay, yes, I could sign the letter to notify of the suspension.

Q Before signing the letter were you required to get permission from someone?

A I would have to get permission from my lieutenant if he was not -- he was present.

Q If your lieutenant was not present you had authority to suspend the license, or you would have to get permission from someone else?

A I could initiate the suspension.

Q What does that mean?

A Send out the letter of



notification.

Q When the letter of suspension is sent out to a licensee, does that mean the license has been suspended, or are there other things that need to happen before the licensing bureau considers that a suspended license?

A The license is suspended when the letter of suspension is sent.

Q So if we go back to page 033 of Exhibit 1, under Section 4 under B it says, "The following acts WILL RESULT in a suspension and possible revocation of your license," and then it goes on to name various events. Do you see where it says that?

A Yes.

Q And under 3, so that would be B 3, it indicates in the handbook, "Failure to make any notification required by Section 2 and Section 3 of this chapter." So those notifications are, or include, what we had talked about a few minutes ago, like if someone in

police officers sending a report in or at renewal maybe, recertification?

A At renewal time. One example is at renewal time our administrative office does review of the licensee of any incidents that may be police related that happened the prior -- during the time that -- that they had the license. Also, we'd receive email notifications for certain incidents.

Q From who?

A It's a computer program and officers will send documentation of incidents.

Q Like a domestic incident report, is that the kind of information that would be sent to the Pistol Licensing Bureau?

A That could be one, yes.

Q And what are some other types?

A Mental health issue.

Q And by "Mental health issue," do you mean a report under Mental Hygiene

1  
2 Law 9.46, or do you mean a police officer  
3 was called to a home and just classifies  
4 it as a mental health answer?

5 A I don't know the case laws of  
6 that specific section, but an example  
7 would be if someone was committed to a  
8 hospital for mental health issues which  
9 they needed assistance.

10 Q So a transport by one of the  
11 officers?

12 A That could be it, yes, that  
13 could be one situation.

14 Q That could be one?

15 A Yes.

16 Q And so mental health  
17 transports are -- well, are officers  
18 required to forward this type of  
19 information to the licensing bureau?

20 A I would have to review policy  
21 and procedure for the County on  
22 specifics.

23 Q With regard to the mental  
24 health-related information that was sent  
25 from the officers to the Pistol Licensing

Bureau, is that mental health information regarding the licensee or anyone in their household or something else?

A It would be licensee and household members.

Q So from the time that you were assigned to the Pistol Licensing Bureau, if a licensee resided with someone who had a mental health issue or who was transported to a hospital for a mental health-related issue, that would pose a ground for the license to be suspended?

A Yes, it can.

Q And it did, right, during your time?

A Had it, yes, at times.

Q So for the times that it did not result in a suspension, what delineated whether it was going to result in a suspension for a licensee or not if any family member had been transported for a mental health evaluation, how was that decision made?

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A I'm sorry, say that again.  
I'm sorry, if you can rephrase it?

Q So if there was a family member of a licensee that was transported for a mental health issue, transported for evaluation, you said sometimes that would result in the suspension of the pistol licensee's license and sometimes it wouldn't, so what were the factors that the Pistol Licensing Bureau looked at to make a decision about whether it would be suspended or not suspended?

A Determination could be made that the person doesn't live at that address anymore would be an example.

Q Anything else?

A No, not specifically that I can think of now.

Q And if the person still lived in the household with the licensee, the suspension was certain to happen?

A I would have -- I would have to -- I would have to see the -- I'm sorry, I'm just trying to think of the

proper way to articulate.

Q Okay, take your time.

A I would say traditionally the license would be suspended, but I can't recall every incident.

Q That was generally the policy?

A Yes.

Q If you turn to 054 of Exhibit 1, in the middle of the page it indicates, "Additional Reasons For Disapproval," and underneath, right underneath, it states, "The lack of a 'automatic bar' in your background does not guarantee the issuance or renewal of a pistol license. There are many other factors that are considered in the investigation into an individual's qualification to possess a pistol license. Reasons for disapproval, other than the above referenced automatic bars, include, but are not limited to," and then it lists seven factors, and if you look under Number 5, one of the factors

1  
2 is, "If the director of community  
3 services makes a report, Mental Hygiene  
4 Law 9.46," but it speaks to indicating  
5 that, "An applicant or a member of his or  
6 her household is likely to engage in  
7 conduct that will result in serious harm  
8 to self or others," do you see that?

9 A Yes.

10 Q And that is kind of what we  
11 just talked about, that if there was a  
12 Mental Hygiene Law report under 9.46  
13 about a licensee's household member that  
14 would result in either a suspension or  
15 that would be a bar to renewal of the  
16 handgun license; is that correct?

17 MS. ZWILLING: Objection. I  
18 believe those are two different  
19 things. The director of the  
20 community services would be a state  
21 official.

22 MS. BELLANTONI: Okay.

23 Q I'm saying for pistol  
24 licensing purposes, if a licensee's  
25 household member has a 9.46 report, then

1  
2 their pistol license would likely not be  
3 renewed or would be suspended?

4 MS. ZWILLING: Okay, so  
5 you're asking him about a 9.46  
6 report by the director --

7 MS. BELLANTONI: By the  
8 County.

9 MS. ZWILLING: The director  
10 of community services would not be  
11 a county report, it would be if  
12 there was a report by the state --

13 MS. BELLANTONI: Yes.

14 MS. ZWILLING: -- is what you  
15 are asking?

16 MS. BELLANTONI: Yes.

17 A That was for disapproval or  
18 this is from the disapproval section.

19 Q So if you look in the bold  
20 area in the middle of the page, it says,  
21 "Does not guarantee the issuance," so  
22 that would be initial approval, "or  
23 renewal of a pistol license," right?

24 A Right.

25 Q So if someone lived with



another person who had a 9.46 report issued from the state, then their pistol license would not be renewed; is that accurate?

A That is what it says.

Q And that's part of the handbook, right?

A Yes.

Q Also, under Number 7, "Other good cause also forms the basis." In other words, if the Pistol Licensing Bureau felt that there was another reason why they shouldn't renew the pistol license, then it wouldn't be renewed, correct?

A Correct.

Q There was a lot of discretion exercised as to whether to renew someone's license or not to renew the license; is that right?

A That's a term I don't know, "a lot of discretion." There is a discretion, I don't know a lot.

Q Okay, fair enough.

1  
2 who would they approach, who do they give  
3 their information to?

4 A That would be to myself or my  
5 lieutenant.

6 Q And then from there what  
7 happens?

8 A Determination is --  
9 determination is made.

10 Q If you were approached by one  
11 of the investigators, like in this case  
12 the LaMarcos, and they give you the  
13 results of their investigation, what  
14 steps would you take when you received  
15 that?

16 A In their scenario, their  
17 license was suspended as a result.

18 Q Generally speaking, when you  
19 were in the Pistol Licensing Bureau, what  
20 would be, in a renewal just like in this  
21 case, what would be the next step if the  
22 investigator conducted the investigation  
23 and then, as here you suspended their  
24 licenses, what is the next thing that  
25 would happen?

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2           A           They would be assigned to an  
3 investigator to perform the suspension  
4 investigation.

5           Q           Would that be the same  
6 investigator that did the initial  
7 investigation on the renewal?

8           A           Not necessarily, there's a  
9 rotation.

10          Q           Was it routine in cases where  
11 a family member had mental health issues,  
12 a family member of a licensee, was it  
13 routine to request the licensee create a  
14 written statement to explain the events  
15 that had occurred?

16          A           A statement is one of the  
17 options, not options, one of the  
18 requirements when someone is under  
19 suspension.

20          Q           What are the other  
21 requirements?

22          A           Depends on the nature of the  
23 suspension.

24          Q           And in a case like the  
25 LaMarcos where they live with an

1  
2 individual who has a mental health issue  
3 or is suffering from a mental health  
4 issue, were there requirements that the  
5 licensee provide medical records or  
6 psychiatric records of their family  
7 member?

8 A I don't remember specifics to  
9 their case, so I couldn't tell you  
10 exactly what they were required of.

11 Q And aside from the LaMarcos,  
12 do you have a recollection during your  
13 tenure in the licensing bureau of that  
14 being a requirement for a licensee?

15 A For medical records of the  
16 incident if there was an incident that  
17 required a transport.

18 Q So if a licensee's family  
19 member was transported for an evaluation,  
20 then generally, the licensing bureau  
21 would request the medical records of that  
22 transport --

23 A That incident.

24 Q -- pertaining to that  
25 incident?

PowerPoint that I made.

Q What was the purpose of making the PowerPoint?

A I made the PowerPoint. I took a course called IDC, Instructor Developmental Course, in which you had to create a lecture, a course, a class plan.

Q Where did you take that course?

A At the Suffolk County Police Academy.

Q Did you present this PowerPoint to anyone?

A I had to perform it in front of the instructors for the course.

Q Other than performing it for the instructors at the course, was this PowerPoint, to your knowledge, used to instruct the Suffolk County Police Officers in their duties and responsibilities?

A I did use it for that purpose, yes.

Q And when did you do that?

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2           A           Once per a part time seasonal  
3 police class and the other time  
4 supervision school.

5           Q           And you were teaching  
6 sergeants or supervisory-level officers?

7           A           I don't believe they were  
8 supervisors yet. It was police officers.

9           Q           The information that is  
10 contained in the PowerPoint located in  
11 this exhibit, is it reflective of  
12 generally what the policies were in  
13 Suffolk County in the licensing bureau,  
14 is that what you based your PowerPoint  
15 on?

16                   MS. ZWILLING: Objection.

17                   You may answer the question.

18           A           From the time that I was  
19 present there, yes.

20           Q           For this time period that  
21 we're talking about in around 2020 and  
22 2021?

23           A           Right.

24           Q           If you look at the first page  
25 of your PowerPoint, it's dated October

25, 2022?

A Correct.

Q Were you already out of the  
Pistol Licensing Bureau at that time?

A Yes.

Q If you turn to 0163.

A Yes.

Q So this is entitled Types of  
PLB Investigations, that's Pistol  
Licensing Bureau investigations, correct?

A Yes.

Q And this is just a list of  
the types of investigations that are  
conducted at the bureau?

A Yes.

Q Indicating new applications,  
suspensions, revocations, renewals and  
cancellations, yes?

A Correct.

Q What do "cancellations" mean?

A The standard pistol license  
at that time expired every five years, so  
if they did not renew, the license could  
be cancelled or in -- or if they passed

away or moved from the jurisdiction,  
among other scenarios.

Q Turning to page 0165, that is  
entitled Pistol License Information  
Handbook; is that correct?

A Yes.

Q And it provides information  
on where the handbook can be located  
online and informs that the book includes  
information on the Pistol Licensing  
Bureau rules and regulations, correct?

A Yes.

Q A indicates that, "Every  
licensee will sign an acknowledgment  
form." I am assuming when they get their  
pistol license, they sign an  
acknowledgment form that they received  
the information?

A Yes.

Q And I guess they are  
responsible for knowing what's in the  
handbook?

A Correct. And in addition,  
every renewal they sign the handbook.



Q If you turn to page 0172, and this page is entitled Grounds For Suspension Or Revocation, and that includes to report a lost or stolen firearm, and when a licensee or household member becomes the subject of an arrest, indictment, field appearance ticket or order of protection in any jurisdiction, those are grounds for suspension or revocation, correct?

A Yes.

Q And a psychiatric episode of a licensee or household member, that also is a grounds for suspension or revocation, right?

A Yes.

Q What does that mean, "psychiatric episode," how is that defined?

A I would say, I'm just trying to put this in context. An example would be when an officer-involved transport of a person to the hospital for mental health issues.

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Q So a transport alone of a family member or a household member would be grounds for suspension or revocation?

A Based, yes, based on a mental health issue.

Q Well, yeah, a transport to like CPEP?

A Right.

Q Or a psychiatric facility?

A Correct.

Q Also volatile domestic incidents would also be grounds for suspension or revocation, correct?

A Correct.

Q What does that mean, volatile domestic incident?

A Examples could be numerous domestic incidents involving a specific licensee.

Q Would there need to be an arrest made for that to constitute grounds, or is it enough that the police came and noted in a report that there was a domestic incident?

1  
2           A           No, it doesn't require an  
3           arrest, it would be the totality of a  
4           domestic incident.

5           Q           What are the objective  
6           factors that would be looked at to  
7           determine whether a domestic incident or  
8           group of domestic incidents rose to the  
9           level of requiring a suspension or  
10          revocation?

11          A           Could be if alcohol use is  
12          involved, as an example, on numerous  
13          occasions.

14          Q           And that would be the case  
15          even if there was no allegation that you  
16          know the firearm was used or threatened  
17          to be used?

18          A           It's kind of hard to limit  
19          the definition concisely. It would be  
20          the totality of an investigation of  
21          whatever factors occurred, like, numerous  
22          domestics. It may just be visitation  
23          agreement which they documented with  
24          police, which wouldn't...

25          Q           So aside from any criminal

1  
2 activity, just appearing at the residence  
3 where there are allegations of alcohol  
4 use or arguments, that would be enough to  
5 suspend or revoke?

6 A It's hard to define the  
7 totality of the incident to limit it that  
8 much. It depends. There's numerous  
9 scenarios that could happen.

10 Q Okay.

11 In the absence of the, you  
12 know, a violation of the penal law?

13 A Right.

14 Q So domestic incident, it's  
15 not confined to domestic violence, right,  
16 it's any domestic incident that under the  
17 totality of the circumstances may give  
18 rise to a suspension or revocation?

19 A The totality could rise to  
20 that.

21 Q And the last bullet point  
22 indicates, "Failure to cooperate and  
23 comply with the requests by PLB and/or  
24 law enforcement personnel." And so what  
25 does that entail?

MS. ZWILLING: Could you read  
the question back? I missed it.

(Record read.)

A That entails if an  
investigation is being conducted and an  
investigator requires whatever. There's  
various. He's trying to conduct an  
investigation and they fail to comply or  
assist in completing the investigation.

Q Then that could be grounds  
for suspension or revocation?

A Yes.

Q That would be even in the  
absence of, like, a prohibiting  
conviction or one of those federal- or  
state-listed prohibitors?

A It could be, yes.

Q And if you could go to the  
next page, 0173.

A Yes.

Q So this is entitled,  
"Removing Firearms," and, "If firearms  
must be removed, you must take  
possession." Are there circumstances

1  
2           A           Well, I was -- that's a --  
3           that's a determination for the officer.  
4           I would -- and then depending on the  
5           circumstances that are there. My point  
6           was sometimes people ask -- the  
7           application has a spot for the safeguard  
8           person, so sometimes people get confused  
9           and believe that they can give them to  
10          the safeguard person, so I just wanted to  
11          clear any misunderstandings.

12          Q           And the officers were also  
13          instructed to also take the pistol  
14          license itself if they're taking the  
15          firearms, yes?

16          A           Correct.

17          Q           And then if you turn to the  
18          next page, 0174.

19          A           Yes.

20          Q           So this is Eyes and Ears  
21          entitled, and then it indicates,  
22          "Remember to properly document and  
23          forward required reports." So who would  
24          they be forwarding the required reports  
25          to?

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A To Pistol License Bureau.

Q What types of reports are the law enforcement officers required to forward to the Pistol Licensing Bureau?

A Well, that would be that they would have to go through the policy and procedure, be aware of what reports required.

Q Where is that policy and procedure?

A LEXAPOL.

Q Is that an SCPD, like, rules and regulations?

A It's the policy and procedure used by the department.

Q In your experience in the Pistol Licensing Bureau, if an officer fills out a domestic incident report, is that the type of report that's required to be forwarded to the Pistol Licensing Bureau?

A I would have to check the policy and procedures.

Q From your recollection from

2021, 2017 when you were in the bureau,  
was that something that was required, do  
you recall?

A I don't recall specifically.

Q How about if an individual in  
the household was transported for a  
mental health evaluation, is that the  
type of report that law enforcement  
officers were required to forward to the  
Pistol Licensing Bureau?

A That I do not know the  
specifics.

Q And the second bullet point  
indicates, "Relay questionable behavior."  
And what does that mean?

A It's not limit -- well, in  
trusting the officer at the call,  
questionable behavior could have many  
meanings from somebody who probably has  
mental health issues or anything of that  
nature to convince.

Q Does that apply to licensees  
only or household members that if there  
is questionable behavior of a household



member they would also let the licensing bureau know?

A They could.

Q Were you teaching that that was a requirement?

A No.

Q I'll take that back, and I will show you what has been marked as Exhibit 2. So if you look at the first page of Exhibit 2, it's entitled, Pistol Licensing Bureau/Release of Medical Records, do you generally recognize that form?

A Yes.

Q And what is that form?

A It's a request to release medical information and have it sent to the Pistol Licensing Bureau.

Q Is that a form that was used in the Pistol Licensing Bureau when you were assigned there?

A It looks like it. I don't know if it's been updated or if it was anything different from what it was.

Q Matthew LaMarco, do you recognize that as being the LaMarcos' adult son?

A Yes.

Q If you look at the second page of the form, it's dated May 15th of 2021, do you see that?

A Yes.

Q Do you have any reason to believe that the form that you're familiar with as having been used for release of medical records in the Pistol Licensing Bureau is different from the form that Matthew LaMarco signed here?

A No.

Q To your knowledge, Matthew LaMarco did not have a pistol license; is that correct?

A Correct.

Q He was the son of Thomas and Diane LaMarco, correct?

A Correct.

Q So under what circumstances would the Pistol Licensing Bureau require

1  
2 a non-licensee to provide a release for  
3 their mental and mental health and/or  
4 medical records?

5 A An example would be in an  
6 incident in which a household member was  
7 transported to a mental health facility  
8 by the police.

9 Q And if Matthew LaMarco had  
10 refused to provide his medical records,  
11 is that a situation that would likely  
12 have resulted in the revocation of the  
13 LaMarcos' pistol license?

14 A That I couldn't tell you  
15 based on the specifics.

16 Q In your experience in the  
17 Pistol Licensing Bureau, have you seen or  
18 experienced other non-licensees provide  
19 this release to the bureau or this type  
20 of a release?

21 A It has been used in other  
22 cases, I don't remember specific details.

23 Q Can you recall, not the  
24 specifics, but whether in the past a  
25 licensee had been unable to or refused to

1  
2 provide this type of release from their  
3 household member or family member?

4 A No, I can't.

5 Q As you sit here is it your  
6 general recollection that when asked,  
7 licensees typically provide or obtain the  
8 release for medical records of their  
9 household members?

10 A From what I am aware of, I  
11 believe so.

12 Q So once this authorization is  
13 received, is the next step getting the  
14 medical records from the hospital or  
15 facility?

16 A That would be one of the  
17 steps.

18 Q What would be another step?

19 A Whatever other aspects of  
20 their investigation. I can't give you  
21 specific details. Depending on what else  
22 we are working on references a specific  
23 investigation.

24 Q So that would be a part of  
25 whatever investigation they're

conducting --

A Correct.

Q -- in addition to getting the written statement from the licensee?

A That's another part.

Q So if you look on the first page of Exhibit 2 where you're looking, if you go down to the second, we'll call it paragraph, but it's really a short paragraph, it says, "The following requested information is necessary in order for the Suffolk County Police Department to complete an investigation to determine the fitness of the above individual to reside in a home with firearms." Do you see that?

A I'm sorry, yes, I see it.

Q So the Pistol Licensing Bureau is through this form and whatever other investigation they're conducting and the medical records to determine whether Matthew LaMarco who does not have a pistol license is fit enough to reside in a home with firearms; is that

accurate?

A Yes.

Q Once the medical records for Matthew LaMarco are received by the Pistol Licensing Bureau as a result of this authorization, what happens then, what happens with those records?

A The investigator will review them.

Q And then?

A Continue with their investigation based on what information they seized from it.

Q Generally, what is the purpose of reviewing the records?

A In reference to a mental health incident, it's just -- it's part of the investigation to ensure that the license could be reinstated.

Q What are the guidelines used in the Pistol License Bureau to determine for looking at mental health records whether the household member is fit to live in a house with firearms?

1  
2           A           Part of it is to clarify  
3           any -- part of it is to clarify what  
4           happened at the incident that resulted in  
5           the suspension and how to proceed.

6           Q           Anything else?

7           A           No.    No.

8           Q           Do you have a psychiatrist or  
9           a psychologist on staff in the Pistol  
10          License Bureau to review these records?

11          A           No.

12          Q           Do you have a mental health  
13          professional on staff in the Pistol  
14          License Bureau to review these records?

15          A           No.

16          Q           How about just generally in  
17          the Suffolk County Police Department, is  
18          there a mental health professional or a  
19          psychiatrist or a psychologist that would  
20          be reviewing these records to determine  
21          whether that family member who is not  
22          licensed is fit to reside in a house  
23          where firearms are also located?

24          A           Not that I am aware of.

25          Q           If you go further down on the

page, it says, "Please provide a letter containing the following information: Reason for treatment, List any medications prescribed and its effects, possible side effects on patient and your professional opinion as to the competence of the patient to reside in a home with firearms." So who is that directed to, is that directed to Mr. LaMarco?

A This is directed to the mental health professional, the mental health professional that Mr. LaMarco sees.

Q So here it would be the medical provider Catholic Charities as indicated on the top of the page?

A Right.

Q So Catholic Charities Hospital was requested to provide a reason for the treatment and to list all of Mr. LaMarco's medications and then give a professional opinion about the competence of Matthew LaMarco to reside in a home with firearms, is that correct,



1  
2 that's the request --

3 A It appears that's the  
4 request, yes.

5 Q -- to Catholic Charities?

6 In your experience, have you  
7 encountered circumstances where the  
8 mental health professional will not  
9 provide any professional opinion as to  
10 whether a non-licensee is fit to reside  
11 in a home with firearms?

12 A I believe it has happened.  
13 I'm trying to recall a specific. Yes.

14 Q If you can't get a mental  
15 health professional to say that family  
16 member is competent to live in a home  
17 with firearms, then what's the policy,  
18 when you were there in the Pistol  
19 Licensing Bureau, for reinstatement of  
20 that pistol license?

21 A Well, I've had, I'm trying to  
22 remember specific, I've had it where  
23 people had issues getting medical  
24 notification from a medical expert, but I  
25 don't recall any incident where they

1  
2 couldn't get anything from somebody who  
3 is in the medical profession that's an  
4 expert in the field.

5 Q But without a mental health  
6 professional or a medical professional's  
7 letter saying that this person is okay to  
8 live in the home with firearms, what is  
9 the rule or what was the rule in the  
10 Pistol Licensing Bureau about reinstating  
11 that pistol license? And again, we're  
12 talking about a family member or a  
13 household member, not the licensee who  
14 needs to get the letter.

15 A It would require someone in  
16 the medical expert in -- in this case,  
17 medical expert to be able to provide  
18 documentation before the pistol license  
19 would be reinstated, before we could  
20 reinstate.

21 Q The license?

22 A The license.

23 Q And if you go down to the  
24 next paragraph, the second sentence, "I  
25 am aware that the information disclosed

pursuant to this authorization may be  
subject to re-disclosure and would no  
longer be protected" --

A I'm sorry, I'm missing a  
page.

Q Sure, that's fine.  
Where it says, "Please  
forward the above requested letter."

A Okay.

Q The next paragraph, the last  
sentence, "I am aware that the  
information disclosed pursuant to this  
authorization may be subject to  
re-disclosure and would no longer be  
protected." Do you see that?

A Yes.

Q And what does that mean to  
you?

MS. ZWILLING: Objection.  
Isn't that the language regarding  
HIPAA?

MS. BELLANTONI: HIPAA is  
more of an electronic disclosure,  
so I'm not sure.

MS. ZWILLING: Yes, I will say that I believe it is in the standard HIPAA forms.

MS. BELLANTONI: That's fine, we'll stipulate to that.

Q But this is part of your forms, correct? I mean, this is what it says, correct?

A Yeah.

Q If you go the third paragraph down from there where it starts, "I understand I do not have to sign this authorization." Do you see that?

A Yes.

Q The next sentence says, "I understand that failure to sign this authorization or revocation of this authorization will affect my eligibility to possess a pistol license." Do you see that?

A Yes.

Q We can agree that Matthew LaMarco was not applying for a pistol license, right?

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A Correct.

Q And then further down,  
Mr. LaMarco, "Matthew LaMarco was  
required to initial to allow the  
disclosure of information related to  
acquired immunodeficiency syndrome,  
behavioral health services, psychiatric  
care and treatment for alcohol and/or  
drug abuse." Is that right?

A Yes.

Q If you turn past the HIPAA  
form, the next form is Pistol License  
Notice of Suspension Hearing, do you see  
that?

A Yes.

Q And that's dated April 19th  
of 2021 for Diane LaMarco, do you see  
that?

A Yes.

Q And you signed this, correct?

A Yes.

Q That's your signature at the  
bottom?

A Yes.

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Q And it indicates, "As a result of a mental health assist that occurred involving a member of your household and your failure to notify this office, your Suffolk County pistol license is hereby suspended pending further investigation into your continued qualification to possess same." Is that accurate?

A Yes.

Q What about these events made Diane LaMarco unqualified or unfit to possess a pistol license?

A Why was it suspended?

Q Why was she determined by the Pistol License Bureau and yourself to be unfit to possess a pistol license?

A Due to a household member having a mental health assist, needing a mental health assist.

Q How does that make Diane LaMarco unfit to possess firearms?

A Well, if a household member has a mental health issue, I don't -- I

1  
2 could look back on that, look into the  
3 pistol licensing book to determine a  
4 specific term or section, but if someone  
5 in the household did have a mental health  
6 incident, it was a possibility for a  
7 suspension.

8 Q So she is unfit because the  
9 pistol license handbook defined her as  
10 being unfit for not reporting the  
11 incident or for living with someone who  
12 had a mental assist?

13 MS. ZWILLING: Objection.

14 You may answer.

15 A Okay, it appears that as a  
16 combination of both, having someone -- a  
17 household member with a mental health  
18 assist incident and failure to notify the  
19 office.

20 Q Other than the pistol  
21 licensing handbook, are you aware of any  
22 other state statute or federal law that  
23 renders, like a felony conviction,  
24 renders someone ineligible or  
25 disqualified from possessing firearms

1  
2 because someone else has a mental health  
3 issue?

4 A I'm not familiar with the law  
5 in that nature.

6 Q So your point of reference is  
7 solely what's written in the pistol  
8 licensing handbook?

9 A I followed what was in the  
10 pistol licensing handbook.

11 Q And under the notice of  
12 suspension, Diane LaMarco was required to  
13 surrender pistol license and all  
14 handguns; is that correct?

15 A Yes.

16 Q Was she also required to  
17 surrender rifles and shotguns, if you can  
18 recall, under Penal Law Section 400?

19 A I can't recall.

20 Q Further down she was also  
21 directed to provide the Pistol Licensing  
22 Bureau with a sworn statement in her own  
23 words explaining in detail the  
24 circumstances surrounding the incident,  
25 correct?



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A Yes.

Q And if you turn to the next page, that's a Pistol License Notice of Suspension Hearing, that's exactly the same but with regard to Mr. Thomas LaMarco, correct?

A Yes.

Q And if you turn the page again, do you recognize this document?

A Yes.

Q It is dated May 27th, so that's why I was asking. This is a letter from Thomas and Diane LaMarco to the Pistol Licensing Bureau explaining the incident that led to their son's transport for a mental health evaluation; is that right?

A Yes.

Q Do you recall when you saw this for the first time?

A No.

Q Now, in this letter in the second paragraph, it says, "The LaMarcos indicate that they have always kept their

1  
2 firearms in a closet that has a  
3 combination lock and that locks  
4 automatically when closed in a safe  
5 within that closet and with a trigger  
6 lock at all times." Do you see that in  
7 the second paragraph?

8 A Yes.

9 Q If true, does the fact that  
10 their firearms are safely secured from  
11 third parties change the circumstances  
12 with regard to the reinstatement of their  
13 pistol license? In other words, they're  
14 saying their son has no access to these  
15 firearms, is it still necessary under the  
16 policies and procedures to look through  
17 the medical records and make a  
18 determination about their license and  
19 whether it could be reinstated?

20 A We'd have to refer to the  
21 medical experts that it would be safe to  
22 have the firearms in the house.

23 Q Even if they're completely  
24 locked up in a closet in a safe with a  
25 combination lock with trigger locks that

1  
2 the son has no access to, you still would  
3 need an approval from a mental health  
4 professional in order to reinstate the  
5 LaMarcos' pistol license?

6 A We would have to continue  
7 investigation to verify these facts and  
8 to get a medical expert's opinion on the  
9 subject.

10 Q Assuming that a police  
11 officer verified that they have  
12 everything locked up, let's assume that,  
13 you would still need an expert medical  
14 opinion that the son could remain in the  
15 house with the firearms; is that  
16 accurate?

17 A We would require a medical  
18 expert's professional opinion on this,  
19 yes.

20 Q About Matthew?

21 A Yes.

22 Q I am going to show you what  
23 has been marked as Exhibit 3. Exhibit 3  
24 is entitled Defendants' Initial  
25 Disclosures Pursuant to Rule 26(a)(1)(A),

1  
2 and just on the front page there are a  
3 number of names of 1 through 5. Do you  
4 recognize any of those names? In other  
5 words, are they police officers, to your  
6 knowledge, from the Suffolk County Police  
7 Department?

8 A I don't know.

9 Q If you don't know that's  
10 fine, I know there are a lot of officers.

11 A Not offhand.

12 Q Okay, that's fine.

13 And if you turn two more  
14 pages in, do you recognize this form  
15 here, this Field Report?

16 A Yes.

17 Q And generally, what does this  
18 report depict? It's dated April 20th of  
19 2021.

20 A Field report for surrendering  
21 a weapon.

22 Q Is that depicting Diane  
23 LaMarco having turned in her firearms for  
24 safekeeping?

25 A Yes.

top, and --

A Where does it say it's dated?

Q It's right up at the top.

A That's the renewal date.

Q Well, I don't know if that's the renewal date, but the date on it is April 1, 2021.

MS. ZWILLING: Yes, it says, "Renewal Date."

Q It does say it, yes?

A Yes, it's the renewal date.

Q It says, "Handguns owned by applicant," and further down it indicates two entries, one is renewal mailed February 1, 2016, do you see that?

A Okay, yes.

Q Am I correct in interpreting that to mean that the renewal that was approved or was mailed out on February 1st of 2016, that might have been an earlier renewal of the pistol license?

A Yes.

Q And this is for Diane LaMarco, right, that's at the top?

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A Yes.

Q So the next entry is dated April 9, 2021. It indicates, "Gave to Sergeant W." Is that yourself?

A Yes.

Q "For review," and then, "-MG." Who is MG?

A I'm trying to think whose initials. I guess who it -- no, I won't guess.

Q Don't guess.  
So it would be an investigator?

A Yes, in the Pistol License Bureau.

Q Would it be administrative staff --

A Yes.

Q -- or investigator?

A Yes.

Q Administrative staff?

A Yes.

Q When we were talking earlier about how things come in and get

disbursed, so this, I am assuming, is the renewal for April for Diane LaMarco would have come in, her application to renew, and then the administrative staff would have done the background, and then it would have gone to you assign to an investigator?

A Right.

Q And that's what happened here?

A I can't remember specifics so I couldn't say for definite.

Q So from this entry it appears as if the renewal for Diane LaMarco came in and that MG, who is the administrative staff, performed the background investigation and gave it to you to review?

A Correct.

Q And the next notation is, "Suspended per Sergeant W.," which is you, right?

A Yes.

Q "A then - failed to inform of

CPEP of son - multiple incidents -  
assigned to PO Plihcik." Is it Officer  
Plihcik?

A Yes.

Q What is the officer's first  
name?

A It's Keira, but it's spelled  
C-I-A-R-A.

Q So it appears from this  
document that the suspension was based on  
just the failure to inform that the son  
Matthew had been transported to CPEP; is  
that accurate?

A It's a general note, so I  
don't remember what the -- what the  
specific meaning of it was. I mean...

Q Would there be a piece of  
paper or an entry made by yourself into  
the computer system, or how does this MG  
know that that's your determination that  
it should be suspended, is it done by  
word of mouth or do you pass a note  
along, email?

A The scenario, I imagine,



would be worth of mouth, so it would be assigned to the next investigator on rotation.

Q There's, like, a physical file where it's written on and it's gone back to MG and then Officer Plihcik?

A Maybe their pistol license application, if it's the whole application.

Q Okay, maybe it's written on there, all right.

Then if you turn to the next page, that appears to be the same as the other field record?

A Yes.

Q Going forward to the next page, that appears to be the renewal application dated March 2021 for Diane LaMarco, yes?

A Yes.

Q And then the next page appears to be a DMV run for Matthew LaMarco; is that accurate?

A Yes.